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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,768	10/03/2003	Fred J. Carter III	21102.0093U1	3410
22465	7590	09/25/2006	EXAMINER	
PITTS AND BRITTIAN P C P O BOX 51295 KNOXVILLE, TN 37950-1295			BLAKE, CAROLYN T	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/678,768	CARTER, FRED J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carolyn T. Blake	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-31, 34-45 and 48-51 is/are pending in the application.
- 4a) Of the above claim(s) 2, 4, 6-8, 13-17, 24, 26-28, 31, 34-38 and 42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 9, 10, 18-23, 25, 29, 30, 39-41, 43-45, 48, 50 and 51 is/are rejected.
- 7) ☒ Claim(s) 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's selection of claims 1, 3, 5, 9, 10, 18-23, 25, 29, 30, 39-41, 43-45, and 48-51 in the reply filed on July 11, 2006 is acknowledged. As such, the rejection under 35 USC 112, second paragraph, for undue multiplicity is withdrawn.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 49. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the numbering of parts in the two embodiments is confusing. For example, a side member in the first embodiment (FIGS 1-6) is reference number "40", and a side member in the second embodiment (FIGS 7-11) is reference number "40'." However, the specification refers to the reference numbers interchangeably when referring to either embodiment. Appropriate correction is required. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required

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in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claim 48 is objected to because it depends from cancelled claim 47. Appropriate correction is required.

For purposes of the below rejections, the examiner interpreted claim 48 as depending from claim 44.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 5, 9, 18-23, 25, 29, 39-41, 43, 50, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Vallotton (6,079,106).

Vallotton discloses a folding knife as claimed, including: a handle having a pivot shaft (28), the pivot shaft defining a rotational axis; a blade (26) having a tang (32) at one end, the tang being rotatably mounted to the handle and about the pivot shaft between a closed position and an open position; a pin (46) positioned on and extending from the tang of the blade, the pin being spaced apart from the rotational axis; a bias element (42) having a fixed end and a spaced free end (by rear pin 48), said fixed end being connected to said handle, a portion of the bias element proximate the free end thereof being in continuous urging contact with the pin to assist in the movement of the blade into its open position. The handle includes a pair of space side member (16, 18) defining a blade cavity there between; and at least one liner member (38).

7. Claims 1, 3, 5, 9, 10, 18-23, 25, 29, 30, 39-41, 43-45, 50, and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan (7,080,457).

Sullivan discloses a folding knife as claimed, including: a handle having a pivot shaft (36), the pivot shaft defining a rotational axis (38); a blade (12) having a tang (30) at one end, the tang being rotatably mounted to the handle and about the pivot shaft between a closed position and an open position; a pin (82) positioned on and extending

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from the tang of the blade, the pin being spaced apart from the rotational axis; a bias element (62) having a fixed end (64) and a spaced free end (66), said fixed end being connected to said handle, a portion of the bias element proximate the free end thereof being in continuous urging contact with the pin to assist in the movement of the blade into its open position. The handle includes a pair of spaced side members (14, 16) defining a blade cavity there between; and at least one liner member (20), wherein the first liner member (20) defining a slot (50) spaced with respect to said rotational axis, wherein said pin defines a distal end (92), and wherein at least a portion of said pin extends above said first liner member into said bias element cavity.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan as applied to claims 41, 43, and 44 above, and further in view of Collins (5,815,927).

Sullivan discloses a folding knife substantially as claimed, but fails to expressly disclose an elongated recess with tapering side walls. However, Collins discloses a folding knife comprising an elongated recess (26) with tapering side walls wherein the recess receives the blade. This recess protects the blade while not in use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to provide an elongated recess, as taught by Collins, on a Sullivan side member in order to receive and protect the blade.

***Allowable Subject Matter***

10. Claim 49 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CB

CB

September 7, 2006

  
BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER